

**STANDARD AGREEMENT**

STD. 213 (NEW 02/98)

AGREEMENT NUMBER

AMENDMENT NUMBER

FF-0203-20

1. This Agreement is entered into between the State Agency and the Contractor named below

STATE AGENCY'S NAME

California Department of Aging

CONTRACTOR'S NAME

San Bernardino County, Department of Aging and Adult Services

2. The term of this Agreement is: July 1, 2002 through June 30, 2003

3. The maximum amount of this Agreement is: \$ 4,675,052.00  
Four million, six hundred seventy-five thousand, fifty two dollars

4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement:

Exhibit A - Scope of Work 6 Page(s)

Exhibit B - Budget Detail and Payment Provision 6 Page(s)

\* Exhibit C - General Terms and Conditions

GTC103  
(Number)1/1/2003  
(Dated)

Exhibit D - Special Terms and Conditions 24 Page(s)

Exhibit E - Additional Provisions 6 Page(s)

\*View at [www.dgs.ca.gov/contracts](http://www.dgs.ca.gov/contracts)

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

**CONTRACTOR**

CONTRACTOR'S NAME (If other than an individual, state whether a corporation, partnership, etc.)

San Bernardino County, Department of Aging and Adult Services

BY (Authorized Signature)



DATE SIGNED)

PRINTED NAME AND TITLE OF PERSON SIGNING

ADDRESS

686 East Mill Street, San Bernardino, California 92415

**STATE OF CALIFORNIA**

AGENCY NAME

California Department of Aging

BY (Authorized Signature)



DATE SIGNED

PRINTED NAME AND TITLE OF PERSON SIGNING

Rachel de la Cruz, Manager, Contracts and Business Services Section

ADDRESS

1600 K Street, Sacramento, California 95814

CALIFORNIA  
Department of General Services  
Use Only

Exempt per Mello-Granlund

Older Californians Act

☐ Exempt per \_\_\_\_\_

Scope of Work – Exhibit A  
TITLE III/VII

ARTICLE I. DEFINITIONS SPECIFIC TO TITLE III AND TITLE VII PROGRAMS

A. DEFINITIONS

1. **Program Requirements** means Title III program requirements found in the Older Americans Act (OAA 42 USC Section 3001-3058), Code of Federal Regulations (45 CFR XIII, 1321); Title 22, California Code of Regulations (CCR), Section 7000 et seq., and Department Program Memoranda.
2. **Title III B (Supportive Services)** means a variety of services including, but not limited to: personal care, homemaker, chore, adult day care/adult day health, case management, assisted transportation, transportation, legal assistance, information and assistance, outreach, long-term care ombudsman, as defined in the National Aging Programs Information Systems (NAPIS) categories and National Ombudsman Reporting System(NORS).
3. **Priority Services** means those services associated with access to services (transportation, outreach, information and assistance, and case management); in-home services including supportive services for families of older individuals who are victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction, and legal assistance.
4. **Title III C-1 (Congregate Nutrition Services)** means nutrition services for older individuals in a congregate setting. Services include meals, nutrition and health promotion education, health promotion programs, nutrition risk screening, and opportunities for socialization. Each meal shall provide one-third (1/3) of the recommended dietary allowance (RDA), and comply with the Dietary Guidelines for Americans.
5. **Title III C-2 (Home Delivered Nutrition Services)** means nutrition services provided to homebound older individuals including meals, nutrition and health promotion education, and nutrition risk screening. Each meal shall provide one-third (1/3) of the recommended dietary allowance (RDA), and comply with the Dietary Guidelines for Americans.
6. **Title III D (Disease Prevention and Health Promotion Services)** means disease prevention, health promotion education, and health promotion programs, nutrition education, nutrition counseling, nutrition risk screening services, and medication management.

**Scope of Work – Exhibit A**  
**TITLE III/VII**

**ARTICLE II. SCOPE OF WORK**

**A. The Contractor shall perform the following:**

1. Implement the statutory provisions of the Title III and Title VII Programs (OAA, Section 306) in accordance with State and federal laws and regulations. Contractor shall make every effort to meet the goals and objectives stipulated in the four-year Area Plan and annual updates of the Area Plan's Goals, Objectives, and Service Unit Plan, herein incorporated into this Agreement by reference. Performance shall not be unilaterally reduced or otherwise changed without prior consultation with, and written approval of, the Department.
2. Establish and maintain an organization that shall have the ultimate accountability for funds received from the Department and for the effective and efficient implementation of the activities as described in the Area Plan and all pertinent State and federal laws and regulations including data reporting requirements.
3. Meet the adequate proportion requirements for priority services as required under the OAA, Section 306 (a)(2); and CCR, Section 7312.
4. Meet the requirements under the OAA, Section 301(a)(1) to secure and maintain maximum independence and dignity in a home environment for older individuals capable of self care with appropriate supportive and nutrition services.
5. Remove individual and social barriers to economic and personal independence for older individuals to the extent possible as required under OAA, Section 301(a)(2)(B).
6. Provide a continuum of care for vulnerable older individuals as required under OAA, Section 301(a)(2)(C).
7. Secure the opportunity for older individuals to receive managed in-home and community-based long-term care services as required under OAA, Section 301(a)(2)(D).
8. Maintain or improve community-based services to meet the physical and mental health of older persons, as required under the OAA, Section 361(a) through funding that includes Title III D Disease Prevention and Health Promotion.
9. Conduct and/or promote activities to prevent, treat, and remedy elder abuse, neglect, and exploitation, as required under the OAA, Section 721.

**Scope of Work – Exhibit A**  
**TITLE III/VII**

**ARTICLE II. SCOPE OF WORK (Continued)**

3. Provide information and technical support to residents, families, and the public about long-term care services. [OAA Section 712 (a)(3)(H)(iii)] [W&I Code Section 9726.1(e)]
4. Provide on-going education (other than education for certification) and consultation to facilities and community. [OAA Section 712 (a)(5)(B)(vii)] [W&I Code Section 9726.1 (e)].
5. Represent the interests of residents before government agencies; analyze, comment on, and monitor federal, State and local laws, regulations, and policies. [OAA Section 712(a)(5)(B)(iv) and (v)].
6. Promote the development of community-based citizens' organizations dedicated to enhancing the quality of long-term care. [OAA Section 712(a)(5)(B)(vi) and (vii)] [W&I Code Section 9726.1(c) and (d)].
7. Witness advance health care directives and property transfers of more than \$100 for residents of skilled nursing facilities. [H&S Code Sections 1289; California Probate Code Sections 4675 and 4700, et seq.]
8. Adhere to Ombudsman performance indicators and assessment criteria that are enumerated in the document LTC Ombudsman Core Elements that are used by the Office of the State Long-Term Care Ombudsman as a guide in evaluating the success of a local program.
9. Use Federal Citation Penalties Account and Medi-Cal Reimbursement funds to provide an increase in the number of certified volunteer Ombudsmen that provide services to residents living in SNFs and Distinct Part SNFs in acute care hospitals. These programs provide staff and resources to recruit, hire, train, and manage additional volunteer certified Ombudsmen. Allowable expenditures include: increased staffing, office space, equipment and furniture for new staff, increased utilities usage, additional funding for volunteer mileage, training, volunteer recognition activities, and materials and space to conduct community awareness activities.
10. Ensure that before the funds referred to in paragraph 9 are requested from the Department, the Long-Term Care Ombudsman Program(s) shall submit a plan to the Department that includes:
  - a. Estimated number of volunteers to be certified during the State fiscal year who will perform Ombudsman activities in SNFs and Distinct Part SNFs in acute care hospitals only.

**Budget Detail, Payment Provisions, and Closeout – Exhibit B**  
**TITLE III/VII**

**ARTICLE I. FUNDS**

**A. Expenditure of Funds**

1. The Contractor shall expend all funds received hereunder in accordance with this Agreement.
2. Funds made available for Ombudsman expansion of volunteer recruitment activities in the Budget Act of 2003 shall supplement, and not supplant, the level of any federal, State, or local funds expended by the Ombudsman Program immediately prior to this augmentation. Accordingly, the Contractor must spend these funds to expand the Long-Term Care Ombudsman Program and shall not reduce normal funding in the program to use these funds for activities of any other programs.
3. Any reimbursement for authorized travel and per diem shall be at rates not to exceed those amounts paid by the State in accordance with Department of Personnel Administration's rules and regulations. This is not to be construed as limiting the Contractor from paying any differences in costs, from funds other than those provided by this Department, between the Department of Personnel Administration rates and any rates the Contractor is obligated to pay under other contractual agreements. No travel outside the State of California shall be reimbursed unless prior written authorization is obtained from the State.(CCR, Title 2 Section 599.615 et seq.)
4. The Department reserves the right to refuse payment to the Contractor or disallow costs for any expenditure, as determined by the Department to be: out of compliance with this Agreement, unrelated or inappropriate to contract activities, when adequate supporting documentation is not presented, or where prior approval was required but was either not requested or not granted.

**B. Accountability for Funds**

The Contractor shall maintain accounting records for funds received under the terms and conditions of this Agreement. These records shall be separate from those for any other funds administered by the Contractor, and shall be maintained in accordance with Generally Accepted Accounting Principles and Procedures.

**Budget Detail, Payment Provisions, and Closeout – Exhibit B**  
**TITLE III/VII**

**ARTICLE I. FUNDS (Continued)**

- b. In the event that State elects to offer an amendment, it shall be mutually understood by both parties that (1) the State reserves the right to determine which contracts, if any, under this program shall be reduced and (2) some contracts may be reduced by a greater amount than others, and (3) that the State shall determine at its sole discretion the amount that any or all of the contracts shall be reduced for the fiscal year.

**E. Interest Earned**

Nonprofits shall maintain advances of federal funds in interest bearing accounts, unless (1), (2), or (3) apply.

- (1) The recipient receives less than \$120,000 in federal awards per year.
- (2) The best reasonably available interest bearing account would not be expected to earn interest in excess of \$250 per year on federal cash balances.
- (3) The depository would require an average or minimum balance so high that it would not be feasible within the expected federal and non-federal cash resources.

For non-profit entities, interest earned in excess of \$250 on federal advances deposited in interest bearing accounts shall be remitted annually to the Department.

**ARTICLE II. BUDGET AND BUDGET REVISION**

- A. The Contractor shall be compensated for expenses only as itemized in the approved Area Plan Budget (CDA 122).
- B. The Contractor shall comply with those provisions and restrictions regarding revisions to the approved Area Plan Budget. (CDA 122).
- C. The final date to submit budget revisions is April 30 of the contract period unless otherwise specified by the Department.

**ARTICLE III. PAYMENT**

- A. The Contractor shall prepare and submit by the 30<sup>th</sup> of each month to the AAA-Based Team, in electronic format, a Detailed Expenditure Data File (SPR 107) and a Request for Funds Data file (SPR 108), unless otherwise specified by the Department.

State of California  
California Department of Aging  
CDA #1 (Rev. 4/98)

Award #:: FF-0304-20  
Date: 1-Jul-03  
Amendment #:  
Date:

Title III/VII Budget Display  
Fiscal Year 2003-04  
SAN BERNARDINO COUNTY, DEPARTMENT OF AGING AND ADULT SERVICES

Page 2 - State Funds		BASELINE	CUMULATIVE TRANSFERS	OTO	TOTAL	NET CHANGE
Title IIIB:	Ombudsman - Program	113,079	-	-	113,079	-
	Other Supportive Services - Progr.	51,937	-	-	51,937	-
	Total Title IIIB	165,016	-	-	165,016	-
Title III C-1:	Administration	785	-	-	785	-
	Congregate Nutrition - Program	87,476	-	-	87,476	-
	Total Title III C-1	88,261	-	-	88,261	-
Title III C-2:	Administration	209	-	-	209	-
	Home Delivered Nutrition - Program	49,668	-	-	49,668	-
	Total Title III C-2	49,877	-	-	49,877	-
Title IIID	Preventive Health - Program	3,861	-	-	3,861	-
	Total Title III General Fund	307,015	-	-	307,015	-
Title VII-(a)	Ombudsman - Program	9,276	-	-	9,276	-
Title VII-(b)	Elder Abuse Prevention - Program	972	-	-	972	-
	Total Title VII General Fund	10,248	-	-	10,248	-
	Total Title III/VII General Fund	317,263	-	-	317,263	-
Ombudsman Initiative						
	Federal Penalty Citations Account	85,339	-	-	85,339	-
	Medi-Cal Reimbursement	36,551	-	-	36,551	-
	Total Ombudsman Initiative	121,890	-	-	121,890	-
	Total State Funds	439,153	-	-	439,153	-
BUDGET DISPLAY SUMMARY						
	Title III/VII Federal Funds	4,235,899	-	-	4,235,899	-
	Title III/VII State Funds	317,263	-	-	317,263	-
	Ombudsman Initiative	121,890	-	-	121,890	-
	Grand Total, Federal & State Funds	4,675,052	-	-	4,675,052	-
Comments:						

State of California  
California Department of Aging  
CDA #1 (Rev. 4/98)

Award #: FF-0304-20  
Date: 1-Jul-03  
Amendment #:  
Date:

Title III/VII Budget Display  
Fiscal Year 2003-04

SAN BERNARDINO COUNTY, DEPARTMENT OF AGING AND ADULT SERVICES

Page 1 - Federal Funds		BASELINE	CUMULATIVE TRANSFERS	OTO	TOTAL	NET CHANGE
Title IIIB:	Administration	134,373	-	-	134,373	-
	LTC-Ombudsman-Program	35,348	-	-	35,348	-
	Other Supportive Services - Progr.	1,157,972	-	-	1,157,972	-
	Total Title IIIB	1,327,693	-	-	1,327,693	-
Title III C-1:	Administration	129,298	-	-	129,298	-
	Congregate Nutrition - Program	1,248,382	-	-	1,248,382	-
	Total Title III C-1	1,377,680	-	-	1,377,680	-
Title III C-2:	Administration	67,514	-	-	67,514	-
	Home Delivered Nutrition - Program	651,867	-	-	651,867	-
	Total Title III C-2	719,381	-	-	719,381	-
Title IIID	Preventive Health - Program	66,035	-	-	66,035	-
	Medication Management - Program	22,216	-	-	22,216	-
	Total Title IIID	88,251	-	-	88,251	-
	Total Title III	3,513,005	-	-	3,513,005	-
USDA:	Congregate Meals - C-1	252,833	-	-	252,833	-
	Home-Delivered Meals- C-2	390,131	-	-	390,131	-
	Total USDA	642,964	-	-	642,964	-
Title VII-(a)	Ombudsman - Program	58,459	-	-	58,459	-
Title VII-(b)	Elder Abuse Prevention - Program	21,471	-	-	21,471	-
	Total Title VII	79,930	-	-	79,930	-
	Total Federal Funds	4,235,899	-	-	4,235,899	-
Comments: The maximum amount of Title III/VII Baseline expenditures allowable for the first quarte					898,234	



**Special Terms and Conditions - Exhibit D**  
**Title III and Title VII**

**ARTICLE I. DEFINITIONS AND RESOLUTIONS OF LANGUAGE CONFLICTS**

- A. The term "Agreement" or "Contract" shall mean the Standard Agreement, (Std. 213), all exhibits, the Budget Display, the Area Plan, Area Plan Budget (CDA 122), attachments and amendments, unless otherwise provided in this Article.
- B. In the event of any inconsistency between the articles, attachments, or provisions which constitute this contract, the following order of precedence shall apply:
  - 1. Contract form, Standard Agreement, etc., and any amendments thereto;
  - 2. Scope of work;
  - 3. Special terms and conditions including Exhibit D;
  - 4. General terms and conditions, including Exhibit C; and
  - 5. All other attachments incorporated herein by reference.
- C. The Contractor shall comply with program memos and other guidance issued by the Department. In the event of conflict between the program memos and/or other Department guidance and the provisions in this Agreement, the provisions in this Agreement shall prevail.
- D. "State" and "Department," mean the State of California and the California Department of Aging interchangeably.
- E. "Contractor" means the Area Agency on Aging to which funds are awarded under this Agreement and which is accountable to the State and/or federal government for use of these funds and is responsible for executing its provisions and services.
- F. "Subcontractor" means the legal entity that receives funds from the Contractor under this Agreement.
- G. "Reimbursable item" also means "allowable cost" and "compensable item."
- H. "CFR" means Code of Federal Regulations. "CCR" means California Code of Regulations. "GC" means Government Code. "W & I" means Welfare and Institutions Code. "USC" means United States Code. "PCC" means the Public Contract Code.
- I. "Program income" means revenue generated by the Contractor or subcontractor from contract-supported activities. Program income is:
  - 1. Voluntary contributions received from a participant or responsible party as a result of the service.

**Special Terms and Conditions - Exhibit D**  
**Title III and Title VII**

**ARTICLE II. ASSURANCES (Continued)**

Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (h) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3) as amended, relating to confidentiality of alcohol and drug abuse patient records; (i) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 43601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (j) any other nondiscrimination provisions in the specific statute(s) under which application for federal assistance is being made; and, (k) the requirements of any other nondiscrimination statute(s) which may apply to this Agreement.

2. Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. Sections 12101 et seq.). Contractor agrees to include this requirement in all contracts it enters into with subcontractors to provide services pursuant to this Agreement.

**D. Forced, Convict, and Indentured Labor**

No foreign-made equipment, materials, or supplies furnished to the State pursuant to this Agreement may be produced in whole or in part by forced labor, convict labor, or indentured labor. By submitting a bid to the State or accepting a Contract, the Contractor agrees to comply with this provision of this Agreement.

**E. Standards of Work**

The Contractor agrees that the performance of work and services pursuant to the requirements of this Agreement shall conform to accepted professional standards.

**F. Conflict of Interest**

1. The Contractor shall prevent employees, consultants, or members of governing bodies from using their positions for purposes including, but not limited to, the selection of subcontractors, that are, or give the appearance of being, motivated by a desire for private gain for themselves or others, such as family, business, or other ties. In the event that the State determines that a conflict of interest exists, funds may be disallowed by the State and such conflict may constitute grounds for termination of the Agreement.

**Special Terms and Conditions - Exhibit D**  
**Title III and Title VII**

**ARTICLE II. ASSURANCES (Continued)**

- d. Executive Order 11246 of September 14, 1965, entitled "Equal Employment Opportunity" as amended by Executive Order 11375 of October 13, 1967, as supplemented in Department of Labor Regulations (41 CFR, Part 60).
  - 2. The Contractor shall not use payments for construction, renovation, alteration, improvement, or repair of privately-owned property which would enhance the owner's value of such property to the benefit of the owner except where permitted by law and by the Department.
  - 3. When funding is provided for construction and nonconstruction activities, the Contractor or subcontractor must obtain prior written approval from the State before making any fund or budget transfers between construction and nonconstruction.
- J. Contracts in Excess of \$100,000
- If all funding provided herein exceeds \$100,000, the Contractor shall comply with all applicable orders or requirements issued under the following laws:
- 1. Clean Air Act, as amended (42 USC 1857).
  - 2. Clean Water Act, as amended (33 USC 1368).
  - 3. Federal Water Pollution Control Act, as amended (33 USC 1251, et seq.).
  - 4. Environmental Protection Agency Regulations (40 CFR, Part 15 and Executive Order 11738).
- K. Debarment, Suspension, and Other Responsibility Matters
- 1. The Contractor certifies to the best of its knowledge and belief, that it and its subcontractors:
    - a. Are not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
    - b. Have not within a three-year period preceding this Agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, State, or local) transaction or contract under a public transaction;

ARTICLE II. ASSURANCES (Continued)

2. This staff shall be available to the State for training and meetings which the State may find necessary from time to time.

N. Corporate Status

1. The Contractor shall be a public or private nonprofit entity or Joint Powers Agreement (JPA). If a private nonprofit corporation or JPA, the Contractor shall be in good standing with the Secretary of State of California and shall maintain that status throughout the term of the Agreement.
2. The Contractor shall ensure that any subcontractors providing services under this Agreement shall be of sound financial status. Any private, subcontracting corporation or JPA shall be in good standing with the Secretary of State of California and shall maintain that status throughout the term of the Agreement.
3. Failure to maintain good standing by the contracting corporation or JPA shall result in suspension or termination of this Agreement with the Department until satisfactory status is restored. Failure to maintain good standing by a subcontracting corporation or JPA shall result in suspension or termination of the subcontract until satisfactory status is restored.

O. Lobbying Certification

The Contractor, by signing this Agreement, hereby certifies to the best of his or her knowledge and belief, that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

**Special Terms and Conditions - Exhibit D**  
**Title III and Title VII**

**ARTICLE V. SUBCONTRACTS (Continued)**

- B. In the event any subcontractor is utilized by the Contractor for any portion of this Agreement, the Contractor shall retain the prime responsibility for all the terms and conditions set forth, including but not limited to, the responsibility for preserving the State's copyrights and rights in data in accordance with Article XIX, of this exhibit, for handling property in accordance with Article VII of this exhibit, and ensuring the keeping of, access to, availability, and retention of records of subcontractors in accordance with Article VI of this exhibit.
- C. Funds for this Agreement shall not be obligated in subcontracts for services beyond the ending date of this Agreement, unless all funding under this Agreement is appropriated without regard for fiscal year, and the Department has agreed in writing to permit the specific expenditure for a specified period of time.
- D. The Contractor shall have no authority to contract for, or on behalf of, or incur obligations on behalf of the State.
- E. Copies of subcontracts, Memorandums and/or Letters of Understanding shall be on file with the Contractor and shall be made available for review at the request of the Department.
- F. The Contractor shall monitor the insurance requirements of its subcontractors in accordance with Article XI, Section E of this exhibit.
- G. The Contractor shall require all its subcontractors to indemnify, defend, and save harmless the Contractor, its officers, agents, and employees from any and all claims and losses accruing to or resulting from any subcontractors, suppliers, laborers, and any other person, firm, or corporation furnishing or supplying work services, materials, or supplies in connection with any activities performed for which funds from this Agreement were used and from any and all claims and losses accruing or resulting to any person, firm, or corporation who may be injured or damaged by the subcontractor in the performance of this Agreement.
- H. The Contractor shall ensure that the subcontractor will complete all reporting and expenditure documents requested by the Department. These reporting and expenditure documents shall be sent to the Contractor in a timely manner and at intervals as determined by the Department.
- I. Prior to the awarding of a subcontract to any for-profit entity, the Contractor shall submit the following to the Department for review and approval (per CCR, Title 22, Division 1.8, Section 7362):

**Special Terms and Conditions - Exhibit D**  
**Title III and Title VII**

**ARTICLE VI. RECORDS (Continued)**

- C. In the event of any litigation, claim, negotiation, audit exception, or other action involving the records, all records relative to such action shall be maintained and made available until every action has been cleared to the satisfaction of the State and so stated in writing to the Contractor.
- D. Adequate source documentation of each transaction shall be maintained relative to the allowability of expenditures reimbursed by the State under this Agreement. If the allowability of expenditures cannot be determined because records or documentation of the Contractor are nonexistent or inadequate according to Generally Accepted Accounting Principles and Procedures, the expenditures will be questioned in the audit and may be disallowed by the State during the audit resolution process.
- E. After the authorized period has expired, confidential records shall be destroyed by shredding and disposed of in a manner that will maintain confidentiality.

**ARTICLE VII. PROPERTY**

- A. Unless otherwise provided for in this Article, property refers to all assets, capitalized or noncapitalized, used in operation of this Agreement. Property that is capitalized is referred to as property, plant, and equipment. Property includes land, buildings, improvements, machinery, vehicles, furniture, tools, and intangibles, etc. Property does not include consumable office supplies such as paper, pencils, typing ribbons, file folders, etc.
- B. Property meeting all of the following criteria are subject to the capitalization requirements. Such property must:
  - 1. Have a normal useful life of at least 1 year;
  - 2. Have a unit acquisition cost of at least \$5000 (e.g., four identical assets which cost \$3000 each, for a \$12,000 total would not meet this capitalization requirement); and
  - 3. Be used to conduct business under this Agreement.

As used in this Agreement, the term "equipment" shall refer only to capitalized property.

- C. Noncapitalized property are those items which do not meet all three requirements in this Article, Section B above.

**Special Terms and Conditions - Exhibit D**  
**Title III and Title VII**

**ARTICLE VII. PROPERTY (Continued)**

- G. Prior to disposal of any property purchased by the Contractor or the subcontractor with funds from this Agreement, the Contractor must obtain approval from the Department regardless of the acquisition value. Disposition, which includes sale, trade-in, discarding, or transfer to another agency may not occur until approval is received from the Department. The Contractor shall use the Request to Dispose of Property (CDA 248) to dispose of property.
- H. The Contractor shall immediately investigate and within five (5) days fully document the loss, destruction, or theft of such property.
- I. The State reserves title to all State-purchased or financed property not fully consumed in the performance of this Agreement, unless otherwise required by federal law or regulations or as otherwise agreed by the parties.
- J. Contractor shall exercise due care in the use, maintenance, protection, and preservation of such property during the period of the project, and shall assume responsibility for replacement or repair of such property during the period of the project, until the Contractor has complied with all written instructions from the Department regarding the final disposition of the property.
- K. In the event of the Contractor's dissolution or upon termination of this Agreement, the Contractor shall provide a final property inventory to the State. The State reserves the right to require the Contractor to transfer such property to another entity, or to the State.
- L. To exercise the above right, no later than 120 days after termination of the Agreement or notification of the Contractor's dissolution the State will issue specific written disposition instructions to the Contractor.
- M. The Contractor shall use the property for the purpose for which it was intended under the Agreement. When no longer needed for that use, the Contractor shall use it, if needed, and with written approval of the State for other purposes in this order:
  - 1. Another Department program providing the same or similar service; or
  - 2. Another Department-funded program; or
  - 3. State/federally-funded program.
- N. The Contractor may share use of the property and equipment or allow use by other programs, upon written approval of the Department. As a condition of the approval, the Department may require reimbursement under this Agreement for its use.

**Special Terms and Conditions - Exhibit D**  
**Title III and Title VII**

**ARTICLE X. AUDITS (Continued)**

- B. The following closely related programs identified by Catalog of Federal Domestic Assistance (CFDA) number are to be considered as an "Other Cluster" for purposes of determining major programs or whether a program specific audit may be elected. The contractor shall communicate this information to the independent auditor conducting the organization's single audit. This Section B applies to Title III/VII only.

US Department of Agriculture	
10.570	Nutrition Programs for the Elderly
US Department of Health and Human Services, Administration on Aging	
93.041	Special Programs for the Aging-Title VII, Chapter 3- Programs for Prevention of Elder Abuse, Neglect, and Exploitation (Title VII-B)
93.042	Special Programs for the Aging-Title VII, Chapter 2- Long Term Care Ombudsman services for Older Individuals (Title VII-A)
93.043	Special Programs for the Aging-Title III, Part F- Disease Prevention and Health Promotion Services (Title III-D)
93.044	Special Programs for the Aging-Title III, Part B – Grants for Supportive Services and Senior Centers (Title III-B)
93.045	Special Programs for the Aging-Title III, Part C – Nutrition Services (Title III-C)

Cluster of programs means a grouping of closely related programs that share common compliance requirements. The types of clusters of programs are research and development (R&D), student financial aid (SFA), and other clusters. "Other Clusters" are as defined by the Office of Management and Budget (OMB) in the compliance supplement or as designated by a State for federal awards the State provides to its subrecipients that meet the definition of a cluster of programs. When designating an "other cluster," a State shall identify the federal awards included in the cluster and advise the subrecipients of compliance requirements applicable to the cluster, consistent with .400 (d) (1) and .400 (d) (2), respectively. A cluster of programs shall be considered as one program for determining major programs, as described in .520, and, with the exception of R&D as described in .200(c), whether a program-specific audit may be elected. (Federal Office of Management and Budget, (OMB) Circular, A-133, Audits of States, Local Governments, and Non-Profit Organizations)

- C. The Contractor shall ensure that all subcontractors expending \$300,000 or more in total federal funds have met the audit requirements of the OMB Circular A-133.



**Special Terms and Conditions - Exhibit D**  
**Title III and Title VII**

**ARTICLE X. AUDITS (Continued)**

6. All audits or subcontractor shall consider the programs identified in "B" as a cluster for purposes of determining major programs or whether a program specific audit may be elected. This paragraph applies to Title III/VII only.
- E. These requirements shall be included in subcontractor Agreements. Further, subcontractor shall be required to include in its contracts with the auditors selected by subcontractors, that the auditors will comply with all applicable audit requirements.
- F. The Contractor shall have the responsibility of resolving audits of its subcontractors.
- G. If the subcontractor is not required to obtain an audit in accordance with Section C of this Article, the Contractor must determine whether the subcontractor expended the funds provided under this Agreement in accordance with applicable laws and regulations. This may be accomplished by reviewing an audit of the subcontractor or through other means (e.g., monitoring reviews) if the subcontractor has not had an audit.
- H. The Department shall have access to all audit reports of Contractors and subcontractors and has the option to perform audits and/or additional work, as needed.
- I. Unless prohibited by law, the cost of audits made in accordance with provisions of the Single Audit Act Amendments of 1996, are allowable charges to Federal Awards. The costs may be considered a direct cost, or an allocated indirect cost, as determined in accordance with provisions of applicable OMB cost principle circulars. Contractor may not charge to Federal Awards the cost of any audit under the Single Audit Act Amendments of 1996, not conducted in accordance with the Act.
- J. Contractor may not charge to Federal Awards the cost of auditing a non-federal entity which has federal awards expended of less than \$300,000 per year, and is thereby exempted under OMB Circular A-133, Subsection.200(d) from having an audit conducted under the Act. Contractor may arrange for agreed upon procedures, the scope of which is less than that of an audit, to be performed by independent auditors on subcontractors not subject to OMB Circular A-133, for purposes of fiscal monitoring. The costs of such agreed upon procedures performed by an independent auditor may be charged to this Award as a cost of monitoring under Administration of the Area Plan.

**Special Terms and Conditions - Exhibit D**  
**Title III and Title VII**

**ARTICLE XI. INSURANCE (Continued)**

- C. Evidence of insurance shall be in a form and content acceptable to the Department of General Services, Office of Risk and Insurance Management. Insurance obtained through commercial carriers shall meet the following requirements:
  - 1. The Certificate of Insurance shall provide that the insurer will not cancel the insured's coverage without thirty (30) days prior written notice to the State, or ten (10) days written notice if the reason for cancellation is for non-payment of insurance premium.
  - 2. The Certificate of Insurance shall provide the statement: "The Department of Aging, State of California, its officers, agents, employees, and servants are included as additional insureds, with respect to work performed for the State of California under this Agreement." Professional liability coverage is exempt from this requirement.
  - 3. The Department shall be named the certificate holder and the address must be listed on the certificate.
- D. The insurance provided herein shall be in effect at all times during the term of this Agreement. In the event the insurance coverage expires during the term of this Agreement, the Contractor agrees to provide the Department, at least thirty (30) days prior to the expiration date, a new certificate of insurance evidencing insurance coverage as provided herein for a period not less than the remaining Agreement term or for a period not less than one (1) year. In the event the Contractor fails to keep in effect at all times said insurance coverage, the Department may, in addition to any other remedies it may have, terminate this Agreement.
- E. The Contractor shall require its subcontractors under this Agreement, other than units of local government which are similarly self-insured, to maintain adequate insurance coverage for general liability, worker's compensation liabilities, and if appropriate, auto liability including non-owned auto and professional liability, and further, the Contractor shall require all of its subcontractors to hold the Contractor harmless. The subcontractor's Certificate of Insurance shall also name the Contractor, not the State, as the certificate holder and additional insured. The Contractor shall maintain certificates of insurance for all its subcontractors.
- F. A copy of each appropriate Certificate of Insurance referencing this Agreement Number, or letter of self-insurance, shall be submitted to the Department with this Agreement.

**Special Terms and Conditions - Exhibit D**  
**Title III and Title VII**

**ARTICLE XII. TERMINATION (Continued)**

6. Appointment of a trustee, receiver, or liquidator for all or a substantial part of the Contractor's property, or institution of bankruptcy, reorganization or the arrangement of liquidation proceedings by or against the Contractor.
  7. Service of any writ of attachment, levy of execution, or commencement of garnishment proceedings against the Contractor's assets or income.
  8. The commission of an act of bankruptcy.
  9. Finding of debarment or suspension, Article II K.
  10. The Contractor's organizational structure has materially changed.
- C. Such termination of this Agreement, shall take effect immediately in the case of threat to life, health, or safety of the public or, in all other cases, upon thirty (30) days subsequent to written notice to the Contractor. The notice shall describe the action being taken, the reason for such action and, any conditions of the termination, including the date of termination. Said notice shall also inform the Contractor of its right to appeal such decision to the State and of the procedure for doing so.
- D. In the event of a termination notice, the Department will present written notice to the Contractor of any condition, such as, but not limited to, transfer of clients, care of clients, return of unspent funds, and disposition of property, which must be met prior to termination.
- E. The Department may determine that a Contractor may be considered a "high risk" agency as described in 45 CFR 92.12 for local governments and 45 CFR 74.14 for non-profit organizations. If such a determination is made, the Contractor may be subject to special conditions or restrictions.

**ARTICLE XIII. REMEDIES**

The Contractor agrees that any remedy provided in this Agreement is in addition to and not in derogation of any other legal or equitable remedy available to the Department as a result of breach of this Agreement by the Contractor, whether such breach occurs before or after completion of the project.

**ARTICLE XIV. DISSOLUTION OF ENTITY**

The Contractor shall notify the Department immediately of any intention to discontinue existence of the entity or to bring an action for dissolution.

**Special Terms and Conditions - Exhibit D**  
**Title III and Title VII**

**ARTICLE XVIII. CONFIDENTIALITY (Continued)**

- C. The Contractor shall not use such identifying information for any purpose other than carrying out the Contractor's obligations under this Agreement.
- D. The Contractor shall not disclose, except as otherwise specifically permitted by this Agreement or authorized by the participant, any such identifying information to anyone other than the State without prior written authorization from the State, except by court order.
- E. The Contractor may allow participants to authorize the release of information to specific entities, but shall not request or encourage any participant to give a blanket authorization or sign a blank release, nor shall the Contractor accept such from any participant.
- F. The Contractor agrees to comply with the privacy and security requirements of Health Insurance Portability and Accountability Act (HIPAA) to the extent applicable and to take all reasonable efforts to implement HIPAA requirements. Contractor will make reasonable efforts to ensure that subcontractors comply with the privacy and security requirements of HIPAA.

**ARTICLE XIX. COPYRIGHTS AND RIGHTS IN DATA**

**A. Copyrights**

- 1. If any material funded by this Agreement is subject to copyright, the State reserves the right to copyright such material and the Contractor agrees not to copyright such material, except as set forth in subdivisions (b) and (c) of this section.
- 2. The Contractor may request permission to copyright material by writing to the Director of the Department. The Director shall consent to or give the reason for denial to the Contractor in writing within sixty (60) days of receipt of the request.
- 3. If the material is copyrighted with the consent of the Department, the State reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, prepare derivative works, publish, distribute and use such materials, in whole or in part, and to authorize others to do so, provided written credit is given the author.

**Additional Provisions – Exhibit E**  
**TITLE III/VII**

**ARTICLE I. ASSURANCES SPECIFIC TO TITLE III AND TITLE VII**

- A. General Assurances. The Contractor shall assure that the following conditions are met:
1. Services are provided only to the defined Eligible Service Population.
  2. If the Contractor makes any award of funds to a public or private nonprofit agency, for the following purposes: (1) acquiring, altering, leasing, or renovating a facility, including a mobile facility, for use as a multipurpose senior center or (2) constructing a facility, including a mobile facility, for use as a multipurpose senior center, the Contractor shall adhere to the program requirements and to 45 CFR Part 74, "Procurement Standards," procurement by contractors and subcontractors for nonprofit organizations, and 45 CFR Part 92.36, procurement for State and local governments, as applicable.
  3. The Contractor shall comply with the standards and guidelines for procurement of supplies, equipment, construction, and services as provided in 45 CFR, Part 92.36, "Procurement Standards."
  4. The Contractor assures that when an existing facility has been altered (with funds made available by this Agreement) and is used as a multipurpose senior center, the period of time in which such facility shall be used as a center is as follows:
    - a. Not less than three (3) years from the date the Agreement terminates where the amount of the Agreement, including the non-federal share, does not exceed \$30,000.
    - b. If the Agreement amount exceeds \$30,000, the fixed period of time shall be not less than three (3) years from the date of Agreement plus one (1) year for each additional \$10,000, or part thereof, to a maximum of \$75,000.
    - c. For Agreement amounts which exceed \$75,000, the fixed period of time shall be no less than ten (10) years.
  5. Any agency awarded Title III funds for senior center acquisition or construction has a completed and notarized Notice of Assurances to the State of California of the Use of Property and the United States' Right of Recapture (CDA 214) recorded with the county recorder. The Contractor shall periodically validate continuing use of such facility as a senior center during the recapture period.

**Additional Provisions – Exhibit E**  
**TITLE III/VII**

**ARTICLE I. ASSURANCES SPECIFIC TO TITLE III AND TITLE VII (Continued)**

- C. Assurances Specific to Legal Assistance Providers.- The Contractor shall assure that the following conditions are met:
1. The contract between the Contractor or its subcontractor, a Long-Term Care Ombudsman Program, and a Legal Services Assistance Provider shall contain a provision for support of the Ombudsman Program staff and volunteers by the Legal Services Assistance Provider. The Contractor further assures that the subcontract shall require the Legal Services Assistance Provider enter into a Memorandum of Understanding with the Ombudsman Program wherein the Legal Assistance Provider shall provide advice to Ombudsman Program staff and volunteers.
  2. Waiver of this part can be obtained from the Department pursuant to Exhibit D, Article XV., of this Agreement entitled, "Revisions, Waivers, or Modifications."

**ARTICLE II. REPORTING PROVISIONS**

- A. The Contractor shall submit program performance reports in accordance with Department requirements. Data reported must be timely, complete, accurate, and verifiable. The Contractor must submit program data reports electronically to the Data Analysis and Regulations Team (DART), California Department of Aging, 1600 K Street, Sacramento, CA 95814, according to the frequency listed:
1. Service Units (SPR 101), quarterly,
  2. Detailed and Summary Client Profile (SPR 102A and 102B), annually,
  3. Provider Profile (SPR 103), annually,
  4. Staffing Profile (SPR 104), annually,
  5. Unduplicated Client Count (SPR 105), annually, and
  6. Focal Point (SPR 106), annually.

Quarterly reports are due October 31, January 31, April 30, and July 31. Annual reports are due August 30. For late reports, the Contractor shall submit a written explanation to the DART by the 15<sup>th</sup> of the following month. This written explanation shall include the reasons for the delay and the date the report will be submitted.

- B. The Contractor shall assure that all subcontractors submit complete and accurate data using the Contractor approved reporting procedures.
- C. The Contractor shall have written procedures specific to the programs requiring electronic reporting which include:

**Additional Provisions – Exhibit E**  
**TITLE III/VII**

**ARTICLE III. APPEAL PROCESS (Continued)**

Costs of administration or court review are not reimbursable.

**ARTICLE IV. OBLIGATIONS UPON TERMINATION SPECIFIC TO THE OMBUDSMAN PROGRAM**

**A. Notice of Intent to Terminate Ombudsman Services**

Contractor shall provide written notice to OSLTCO of its intent to terminate any subcontract with a third party to provide Ombudsman services. Such notice shall be delivered to OSLTCO within three working days after Contractor receives notice of intent to terminate from the subcontractor. The Contractor shall assure that a certified Ombudsman is available to carry out the mandates and responsibilities of the program. In its notice to OSLTCO, Contractor shall identify which of the following two options it will use to continue to provide Ombudsman services:

1. Use experienced certified volunteer Ombudsmen to continue to operate the local Ombudsman program with supervision from either a certified Ombudsman from the terminating subcontractor or certified Ombudsman staff from a neighboring Ombudsman program.
2. Provide the Ombudsman program as a direct service and rehire the existing staff until such time as a Request for Proposal is prepared and a new subcontractor is selected.

If the Contractor cannot continue to provide Ombudsman services using either of these options, the State Long Term Care Ombudsman or a designated representative will operate the program until a Coordinator/Manager and experienced certified volunteer(s) can do so.

**B. Transition Plan**

1. Contractor shall submit a Transition Plan (TP) with the Notice of Intent to Terminate to OSLTCO which describes how the Contractor will implement the option it has chosen to ensure continued services. The TP shall include the following:
  - a. Names, addresses, and telephone numbers of current facilities which the local Ombudsman Program oversees.
  - b. A plan for notifying all the impacted facilities of the change in the parties providing Ombudsman services.
  - c. A plan to ensure that the full inventory of confidential records is maintained in a secure location.